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**UNITED STATES DISTRICT COURT, DISTRICT OF MONTANA  
MISSOULA DIVISION**

DAVID and LINDA RICE,  Plaintiffs  v.  UNITED STATES OF AMERICA,  Defendant	Cause No. _____  COMPLAINT
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COME NOW the Plaintiffs, by and through counsel, and for their claims state and allege as follows:

1. This action arises under the Federal Tort Claims Act, 28 U.S.C. § 1346, *et seq.*
2. The Plaintiffs, David and Linda Rice are residents of Missoula, Missoula County, Montana.
3. On September 15, 2015, at approximately 11:10 a.m., Linda Rice was walking southbound facing traffic on the east shoulder of Gharrett Street approaching the intersection of Gharrett and Kinnikinnick Court in Missoula, Montana. At the same time, a USPS mail delivery truck driven by Matthew Masters was westbound on Kinnikinnick Court.

4. Matthew Masters was looking left while turning right and the USPS delivery truck struck Linda Rice pushing her backwards several feet, causing her to fall to the pavement and strike her head.

5. Linda Rice was taken by ambulance to the hospital where she was treated in the emergency department. Her care included a complete blood count, CT Head, CT Lower Left Extremity, CT Left Knee, comprehensive metabolic panel, urine culture, urinalysis, x-ray of left foot, and an x-ray of left tibia/fibula.

6. Linda Rice suffered fractures of the second, third, and fourth metatarsals with intra-articular extension to the second through fourth tarsometatarsal joints and comminuted intra-articular fracture of the lateral cuneiform. She suffered a split-type lateral left tibial plateau fracture with transverse extension through the tibial metaphysis and a left closed fibular head fracture.

7. For her injuries, Linda's recovery regimen included treatment from an orthopedic surgeon, physical therapist, and acupuncturist.

8. David and Linda Rice had to make alterations to their home to accommodate Linda, who was physically limited by her injuries.

9. Linda Rice required medical equipment to accommodate her immobility, non-weight bearing status and injuries resulting from the wreck.

10. Matthew Masters was issued a citation for careless driving, a violation of Montana Code Annotated 61-8-302(1). He plead guilty and was fined for the offense.

11. The United States of America, through its servants, employees and agents at the United States Postal Service ("USPS") in Missoula, Montana failed to exercise the

learning, skill and diligence required by delivery drivers and motorists and were thereby negligent in performing duties in Missoula, Montana.

12. As a direct and proximate result of the negligence of Matthew Masters, a USPS City Carrier in Missoula, Montana, whose negligence is imputed to Defendant, Linda Rice suffered substantial physical and mental injuries.

13. As a direct and proximate result of the negligence of Matthew Masters, a USPS City Carrier in Missoula, Montana, whose negligence is imputed to Defendant, Linda Rice will incur expenses associated with future medical care.

14. As a direct and proximate result of the negligence of Matthew Masters, a USPS City Carrier in Missoula, Montana, whose negligence is imputed to Defendant, Linda Rice incurred damages to personal items.

15. Linda Rice is entitled to recover damages for her significant, permanent injuries and the resulting long term damage to her family, social and recreational activities; pain and suffering; emotional distress; mental anguish; past and future costs of health care, therapy, and medications; loss of her ability to enjoy life and destruction of her normal course of life.

16. Linda Rice is currently and was married to David Rice at the time of her injuries. As a result of Defendant's actions or omissions, David Rice has been deprived of Linda Rice's care, comfort, companionship, society, advice, services, contributions and support that he would have received from his wife had she not been injured.

17. During Linda Rice's hospitalization and recovery, David Rice was required to take leave from work to help care for Linda.

18. During Linda Rice's recovery, she required a caregiver and incurred expenses for the same.

19. David Rice also asserts a claim for damages for his loss of Linda's care, comfort, and society.

20. Pursuant to 28 U.S.C. § 2675(a), the claims set forth herein were presented in a timely manner to Defendant through submission to the USPS Tort Claims Coordinator at Tort Claims Investigations Dakotas District. The USPS Law Department National Tort Center received David and Linda Rice's claims on November 25, 2016. As of September 8, 2017, the Law Department National Tort Center's Tort Claims Examiner/Adjudicator had not resolved these claims. Given no resolution of the claims, Linda Rice and David Rice treat the claims as denied as of September 8, 2017. This action is therefore timely instituted.

WHEREFORE, Plaintiff Linda Rice prays for judgment and an award of damages in the amount of \$416,681.00 to compensate her for all damages proved at trial, for the costs of this action and for such further relief as the Court deems just and proper. Plaintiff David Rice prays for judgment and an award of damages in the amount of \$50,000.00 to compensate him for all damages proved at trial, for the costs of this action and for such further relief as the Court deems just and proper.

DATED this 8<sup>th</sup> day of September, 2017.

PAOLI LAW FIRM, P.C.  
ATTORNEYS FOR PLAINTIFFS

By: /s/ David R. Paoli  
David R. Paoli  
Attorney for Plaintiff